

Isaac P. Hernandez (SBN 025537)
Hernandez Law Firm, PLC
55 E. Thomas Road
Phoenix, Arizona 85012
Tel: 602.753.2933
Fax: 855.592.5876
Email: isaacphdez@gmail.com

Attorney for Plaintiff Juan Vallejo

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Juan Vallejo,

Plaintiff,

vs.

Azteca Electrical Construction, Inc.;
Jeffrey C. Stone, Inc.; and Summit
DCK, LLC; and, Carlos Valencia
Yado,

Defendants.

Case No. _____

COMPLAINT

(Jury Trial Demanded)

COMES NOW Plaintiff Juan Vallejo in support of his Complaint against Defendants Azteca Electrical Construction, Inc., Jeffrey C. Stone, Inc., Summit DCK, LLC, and Carlos Valencia Yado (“Defendants”), hereby alleges as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action to recover unpaid compensation and other appropriate relief from Defendants pursuant to the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §201, *et seq.*, and the Arizona Minimum Wage Act (“AMWA”), A.R.S. §23-362, *et seq.* Plaintiff contends that Defendants failed to

1 compensate Plaintiff at one-and-a-half times his regular hourly rate for certain time
2 periods in which he worked more than forty hours in a workweek, and failed to pay
3 him at all for certain time periods worked, thereby depriving Plaintiff of
4 compensation to which he was entitled. Plaintiff seeks declaratory relief, backpay
5 for nonpayment and underpayment of wages, liquidated damages, attorney's fees
6 and costs, and other relief available under the FLSA, AMWA, and any other
7 applicable law.

8 **JURISDICTION AND VENUE**

9 2. Jurisdiction over Plaintiffs' federal law claims is conferred on this
10 Court pursuant to 28 U.S.C. §1331 and 29 U.S.C. §216(b).

11 3. Jurisdiction over Plaintiff's state law claims is conferred on this Court
12 pursuant to 28 U.S.C. §1367.

13 4. Venue is proper in this Court pursuant to 28 U.S.C. §1391, because
14 the acts, events, or omissions giving rise to Plaintiff's claims occurred in whole, or
15 in part, in Maricopa County, Arizona, and because Defendants maintain places of
16 business in, and regularly conduct business in Maricopa County, Arizona, and
17 throughout the geographic region comprising this judicial district.

18 **PARTIES**

19 5. Defendant Azteca Electrical Construction, Inc. ("Defendant Azteca"),
20 an Arizona corporation, is an electrical construction contractor that performs
21 services for its customers throughout the State of Arizona.

22 6. Defendant Carlos Valencia Yado ("Defendant Yado") was/is the
23 owner of Defendant Azteca and was at all times relevant to this action a resident of
24 Maricopa, Arizona.

25 7. Defendant Jeffrey C. Stone, Inc. ("Defendant JCS"), an Arizona
26 corporation, is a general contractor and construction company that performs
27 services for its customers throughout the State of Arizona.

28 8. Upon information and belief, sometime in 2011 or 2012 Defendant

1 JCS and another company named DCK Worldwide, LLC, joined to form Defendant
2 Summit DCK, LLC, a Delaware corporation.

3 9. Like Defendant JCS, Defendant Summit DCK is a general contractor
4 and construction company that performs services for its customers throughout the
5 State of Arizona.

6 10. Upon information and belief, both Defendant JCS and Defendant
7 Summit DCK operate out of the same office located at 3333 E. Camelback Road,
8 Suite 122, Phoenix, Arizona 85018.

9 **FACTUAL BACKGROUND**

10 11. Plaintiff began working for Defendant Azteca as an electrician in
11 2000.

12 12. On or about October 2010, Defendant JCS, doing business as Summit
13 Builders, entered into a written agreement with Mohave County for construction
14 work on the Bullhead City Library, located in Bullhead City, Arizona (“Library
15 Project”).

16 13. As the General Contractor on the Library Project, Defendant JCS
17 executed a payment bond providing that Defendant JCS would “promptly pay all
18 moneys due to all persons supplying labor [or] materials to [Defendant JCS] or
19 [Defendant JCS’s] subcontractors in the prosecution of the work provided for in the
20 Contract.”

21 14. Defendant Azteca was a subcontractor on the Library Project.

22 15. In March 2011, Plaintiff and Alberto Ramirez, another employee of
23 Defendant Azteca, began performing work on the Library Project behalf of
24 Defendant Azteca and Defendant JCS.

25 16. Plaintiff worked on the Library Project from March 2011 until its
26 completion sometime in November 2012.

27 17. From March 2011 until November 2012, Plaintiff worked between 40
28 and 60 hours per week on average.

1 18. Plaintiff's hourly rate on the Library Project was \$21.50 per hour.

2 19. From the time Plaintiff began working on the Library Project in
3 March 2011 until July 2011, Defendant Yado was present and would work
4 alongside Plaintiff. During that time, Defendant Yado was the person responsible
5 for communicating with the Project Manager Tom Wallace and Project
6 Superintendant Neil Lincoln.

7 20. Upon information and belief, Mssrs. Wallace and Lincoln were
8 employees of Defendant JCS and/or Defendant Summit DCK at all times relevant to
9 this action.

10 21. From March 2011 until July 2011 Plaintiff interacted with Mr.
11 Lincoln on work related matters one or two times per month.

12 22. Defendant Yado stopping coming to the jobsite in late July or early
13 August 2011.

14 23. From July 2011 until November 2012 Plaintiff was the primary
15 contact on the Library Project for electrical work Defendant Azteca had contracted
16 to perform. During that time Plaintiff was in regular daily contact with Mr.
17 Lincoln, typically having two or three meetings with him throughout the day to
18 discuss the Library Project. Among other things, Plaintiff and Mr. Lincoln would
19 discuss the supplies that Plaintiff and his coworker (Mr. Ramirez) required to
20 perform the work, making arrangements to order supplies or purchase supplies from
21 local hardware stores, scheduling hours of work, and coordinating the electrical
22 work Plaintiff and Mr. Ramirez were performing with that of other subcontractors.

23 24. Beginning in May 2011, Defendant Azteca stopped paying Plaintiff
24 on a regular basis.

25 25. Plaintiff did not receive any payment for work performed on the
26 Library Project in June or July 2011.

27 26. Plaintiff began complaining to Defendant Yado about the unpaid
28 wages in June 2011.

1 27. Sometime in August 2011, Plaintiff received a partial payment of the
2 money he was owed from Defendant Azteca.

3 28. Sometime around August or September 2011, Plaintiff communicated
4 his complaints regarding unpaid wages to different employees of Defendant JCS,
5 including but not limited to, Project Manager Tom Wallace and Project
6 Superintendant Neil Lincoln.

7 29. Sometime in November 2011, Defendant JCS agreed to pay Plaintiff
8 for some of the money he was owed for work performed on the Library Project
9 between May and November 2011, and further agreed to start paying Plaintiff
10 directly for all Plaintiff's work performed on the Library Project. As a result,
11 Plaintiff received two or three partial payments of the money he was owed for work
12 performed on the Library Project between May and November 2011.

13 30. In addition to the amounts of unpaid wages and overtime that Plaintiff
14 never received for work Plaintiff performed on the Library Project from May 2011
15 to November 2011, Plaintiff accumulated expenses for materials and work related
16 fuel usage that he paid from his own money that were never reimbursed by
17 Defendant Azteca or Defendant JCS.

18 31. Beginning in December 2011/January 2012, Defendant JCS directly
19 paid Plaintiff for all hours of work on the Library Project.

20 **FIRST CAUSE OF ACTION**

21 **(FLSA-Unpaid Overtime)**

22 32. Plaintiff incorporates by reference Paragraphs 1 through 31 of this
23 Complaint as if specifically set forth herein.

24 33. By failing to pay Plaintiff one-and-one-half times his regular hourly
25 rate for all hours worked in excess of 40 hours per work week, Defendants violated
26 his rights under the FLSA, including but not limited to 29 U.S.C. §207.

27 34. Defendants' failure to pay Plaintiff one-and-a-half times his regular
28 hourly rate for all hours worked in excess of 40 hours per work week was knowing,

1 willful, and in reckless disregard of his rights under the FLSA.

2 **SECOND CAUSE OF ACTION**

3 **(FLSA-Minimum Wages)**

4 35. Plaintiff incorporates by reference Paragraphs 1 through 34 of this
5 Complaint as if specifically set forth herein.

6 36. By failing to pay Plaintiff at all for certain hours of work, Defendants
7 violated his rights under the FLSA, including but not limited to, 29 U.S.C. §206.

8 37. Defendants' failure to pay Plaintiff for all hours of work was
9 knowing, willful, and in reckless disregard of his rights under the FLSA.

10 **THIRD CAUSE OF ACTION**

11 **(AMWA-Minimum Wages)**

12 38. Plaintiff incorporates by reference Paragraphs 1 through 37 of this
13 Complaint as if specifically set forth herein.

14 39. By failing to pay Plaintiff at all for certain hours of work, Defendants
15 violated his rights under the AMWA, including but not limited to, A.R.S. §23-363.

16 40. Defendants' failure to pay Plaintiff for all hours of work was
17 knowing, willful, and in reckless disregard of his rights under the AMWA.

18 **WHEREFORE**, Plaintiff prays for relief against Defendants, jointly and
19 severally, as follows:

- 20 A. Declare that Defendants violated the FLSA and/or AMWA by failing
21 to pay Plaintiff for all hours of work;
- 22 B. Declare that Defendants violated the FLSA by failing to pay Plaintiff
23 one-and-a-half times his regularly hourly rate for all hours worked in
24 excess of 40 hours per work week;
- 25 C. Award Plaintiff payment for all unpaid wages and overtime;
- 26 D. Award Plaintiff liquidated damages in an amount equal to his unpaid
27 wages and overtime;
- 28

- 1 E. Order Defendants to pay reasonable attorney's fees and costs pursuant
2 to 29 U.S.C. §216(b) and/or A.R.S. §23-364;
- 3 F. Order Defendants to pay pre-judgment interest on all amounts for
4 which pre-judgment interest is legally allowable, at the highest lawful
5 rate;
- 6 G. Order Defendants to pay post-judgment interest at the highest lawful
7 rate for all amounts, including attorney fees, awarded against
8 Defendant; and
- 9 H. Order all other relief, whether legal, equitable or injunctive, as may be
10 necessitated to effectuate full relief to Plaintiff.

11 **JURY DEMAND**

12 Plaintiff demands a jury trial.

13
14 Respectfully submitted this 14th day of June 2013.

15 Hernandez Law Firm, PLC

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17 By: /s/ Isaac P. Hernandez
18 Isaac P. Hernandez
19 Attorney for Plaintiff
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